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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re J.G., a Person Coming Under the
Juvenile Court Law.

B205562
(Los Angeles County
Super. Ct. No. NJ22755)

THE PEOPLE,

Plaintiff and Respondent,

v.

J.G.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles County.

John C. Lawson II, Judge. Affirmed.

Mary Bernstein, under appointment by the Court of Appeal, for Defendant and Appellant.

Edmund G. Brown, Jr., Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Pamela C. Hamanaka, Senior Assistant Attorney General, Keith H. Borjon and Sharlene A. Honnaka, Deputy Attorneys General, for Plaintiff and Respondent.

The juvenile court sustained a petition alleging that appellant J.G. committed first degree burglary in violation of Penal Code section 459. The court found that appellant was a person described by Welfare and Institutions Code section 602, adjudged appellant to be a ward of the court, and placed him on home probation, with a maximum confinement time of six years.

Appellant appeals from the orders sustaining the petition and adjudging him to be a ward of the court, contending that there is insufficient evidence to support the juvenile court's finding that he committed a false fire alarm. We affirm the juvenile court's orders.

Facts

On July 16, 2007, about 7:00 p.m., sisters Allison and Cadence Arzuman returned to the home they shared in San Pedro. Allison entered and noticed that the back door was open and shoes, pants, a t-shirt and a clear plastic envelope containing a pamphlet and a picture of Jesus were lined up next to the door. The clothing and envelope did not belong to the sisters.

Allison went into her bedroom and saw a glass jar on the floor. She kept the jar on her nightstand. Paper money had been removed from the jar, but coins remained. Allison called 911 and said that she had been robbed. Allison noticed that her dresser drawers were open. Her watch, necklace and digital camera had been moved from the drawers to the top of the dresser and placed in a line.

Allison opened the door to the bathroom and saw appellant standing near the bathroom window wearing only a towel. Allison, who was still on the phone with the 911 operator, yelled that the thief was still in her house. She described him as a male Hispanic with curly hair, about 13 to 15 years old. Appellant walked toward her with his hand outstretched in a "stop" motion and said, "Ma'am please don't do this. Ma'am, no."

Allison walked down the hall to the door and appellant followed her. Appellant picked up the clothing and plastic envelope and ran out the door. Allison tried to grab him, but succeeded only in grabbing the towel. Appellant continued to flee.

Allison called her uncle, Edgar Butts. He came to the house with his sons Madison and Ben. Allison gave them a description of appellant. Edgar and Ben went looking for appellant. Madison stayed with the sisters.

Allison looked through the house and discovered a pair of her fishnet stockings in the shower, intertwined with a pair of Cadence's underpants. She discovered that some of her silky tank tops and underwear had been moved into Cadence's bedroom and that her sister's new underwear had been removed from their bag and their tags had been cut off. A mirror in Cadence's room had been taken off the wall and then leaned against it. Cadence's bed had been turned down.

In response to a phone call from Ben, Allison went outside. Appellant was standing next to Ben. Allison began shouting at appellant, but he said that he did not know what she was talking about. Allison had no doubt that he was the male she had seen in her bathroom.

Police soon arrived and arrested appellant. When Allison walked around the property with police, they discovered that the kitchen window screen had been cut and then hidden in her backyard. Allison and Cadence searched the house and determined that the money from Allison's jar and Cadence's iPod had been taken.

At the hearing, appellant testified in his own behalf that he had been in the neighborhood that day with a group of young people trying to sell subscriptions for the Press Telegram. He had been soliciting on the Arzumans' block, but took a break to go to a restroom in a nearby park. When he returned, he was stopped by two men and confronted by Allison. He denied entering the Arzuman house. According to appellant, there were a number of similarly dressed young people in the area, carrying the same pamphlet and trying to sell subscriptions.

Discussion

Appellant contends that there is insufficient evidence to show that he entered the Arzuman residence with the intent to commit larceny and so insufficient evidence to support the trial court's finding that he committed burglary.

Residential burglary occurs when a person enters an inhabited dwelling with the intent to commit larceny or any felony. (Pen. Code, § 459.) Burglary based on larceny generally requires an intent to steal on entry to the home. (*People v. Waidla* (2000) 22 Cal.4th 690, 734; *People v. Sparks* (2002) 28 Cal.4th 71, 85, fn. 17.)

In reviewing the sufficiency of the evidence, "courts apply the substantial evidence test. Under this standard, the court must review the whole record in the light most favorable to the judgment below to determine whether it discloses *substantial evidence* - that is, evidence which is reasonable, credible, and of solid value - such that a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt." (*People v. Cuevas* (1995) 12 Cal.4th 252, 260-261, internal quotation marks and citations omitted.)

The standard of review is the same when the prosecution relies on circumstantial evidence to prove guilt. (*People v. Rodriguez* (1999) 20 Cal.4th 1, 11.) "If the circumstances reasonably justify the trier of fact's findings, the opinion of the reviewing court that the circumstances might also reasonably be reconciled with a contrary finding does not warrant a reversal of the judgment." (*People v. Thomas* (1992) 2 Cal.4th 489, 514, internal quotations omitted, citing *People v. Bean* (1988) 46 Cal.3d 919, 932-933.)

This same standard applies in determining the sufficiency of the evidence to support the true finding of a juvenile court. (*In re Roderick P.* (1972) 7 Cal.3d 801, 809.)

Appellant contends that his intent in entering the house is not clear. He claims that he may have entered the house with the intent to steal and then been distracted by the female clothing he discovered after entering or he may have entered the house intending only to cross-dress and then decided to steal the cash and other items he discovered once

inside the house. He contends that the evidence shows that he had a far greater interest in cross-dressing than in stealing.

Appellant's argument assumes that there can be only one intent in entering a dwelling, and that the intent to steal and to cross-dress are mutually exclusive. Not so. It is possible to enter with multiple intents. (See, e.g., *People v. Holt* (1997) 15 Cal.4th 619, 670 [an inference that the defendant intended both sexual assault and robbery when he entered the victim's home was reasonable].) Under the facts of this case, there is no reason to infer that appellant entered with only one intent and then formed a second intent after entry. Appellant performed two different but intertwined sets of actions in the house, and the most reasonable inference is that he harbored two simultaneous intents upon entry: to try on female clothing and to take any items of clothing that he liked, as well as any other valuable items he might find.

The inference of an intent to steal is very strong. Appellant took cash and an iPod from the house. It is reasonable to infer that the cash and iPod were in his clothing, positioned near the back door. He was able to grab that clothing when he fled. There were strong indications that he had been preparing to steal other items. He had removed a digital camera, a watch and a necklace from Allison's drawer and lined them up on top of the dresser. He cut the tags off some brand-new underwear belonging to Cadence.

Appellant did take the time to try on clothing, but that action does not negate an intent to steal. Appellant was clearly surprised by the return of the Arzumans. He may well have been selecting which garments to take with him when the Arzumans returned, or he may simply have been enjoying himself before leaving with the other, more valuable items.

Disposition

The juvenile court's orders are affirmed.

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ARMSTRONG, Acting P. J.

We concur:

MOSK, J.

KRIEGLER, J.